IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5268 OF 2005

Yunus Mohammed Aziz Shaikh ...Applicant
Vs.
The State of Maharashtra ...Respondent

Mr. D.S. Sawant i/by Mr. R.P.Walvekar for the Applicant.
Ms M. M. Deshmukh, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : AUGUST 30, 2005.

P.C.:

1. Heard the advocate appearing for the Applicant and the learned A.P.P. for the State. The offence alleged against the Applicant is under sections 143, 144, 145, 147, 149, 307, 323 and 324 of the Indian Penal Code. The allegation made by the prosecution is that the Applicant assaulted one Arif Iqbal Beg by a chopper on his head. The statement of the said Arif who is the first informant discloses that co-accused Ayub assaulted him with another weapon. One Tifayat Ali was also injured in the said incident who was hospitalised.

2. The learned Advocate appearing for the Applicant pointed out that considering the nature of injuries on the person of the first informant Arif, Section 307 of the Indian Penal Code is not attracted in so far as the Applicant is concerned. He pointed out that only one injury is caused by the Applicant to the said Arif.

3. The learned A.P.P. pointed out that there is

a recovery of chopper at the instance of the Applicant. The learned A.P.P. submitted that considering the brutal nature of offence, no case is made out for enlarging the Applicant on bail. The learned A.P.P. further submitted that now the case has been committed to the Court of Sessions and therefore, trial can be expediated.

4. I have considered the submissions. The specific role ascribed to the Applicant is as regards assault by using chopper on the head of Arif. The injury certificate discloses that there is one C.L.W. having size 4 cm X 0.5 cm on the frontal region. There are stab injuries on the person of Arif. As per the statement of Arif, said stab injuries are caused by co-accused Ayub. Thus, at this stage, it appears that the only injury caused by the Applicant is C.L.W. referred to above.

5. The Applicant has been in custody from 01st April, 2005. Chargesheet has been filed after completion of investigation. Considering the nature of allegation made against the Applicant and considering the fact that no criminal antecedents are brought on record, the Applicant is entitled to be enlarged on bail subject to stringent conditions.

6. Hence, I pass the following order:

: O R D E R :

i) The Applicant shall be enlarged on bail in connection with **C.R.No.64 of 2005 of Dharavi Police Station,** subject to furnishing a personal bond of **Rs.15,000/-** with one or two local sureties in the like amount.

ii) The Bail is granted subject to condition that till the conclusion of trial the Applicant will not enter the area falling within the city of Mumbai.

iii) The effect will be given to this order only after the Applicant furnishes to the Investigating Officer the detailed address of place of residence where he proposes to stay after he is enlarged on bail.

iv) The Applicant will not be entitled to enter the area of city of Mumbai save and except for attending to the trial on specific dates fixed.

v) The Applicant will report to the concerned local Police Station once a week till the conclusion of trial.

vi) The Bail is granted subject to condition that the Applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses

and shall not in any manner tamper with the prosecution evidence.

vii) The Applicant shall co-operate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

viii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

ix) Application is disposed of in above terms.

x) The parties to act upon an authenticated copy of this order.

JUDGE